

DIVISION II

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
JOHN B. ROBBINS, JUDGE

CA 05-1396

AUGUST 30, 2006

DEBBIE BEATTY KNAPP
APPELLANT

APPEAL FROM THE WORKERS'
COMPENSATION COMMISSION
[NO. F005005]

V.

LOWELL HOME HEALTH
APPELLEE

AFFIRMED

Appellant Debbie Beatty Knapp sustained a compensable injury to her upper back and shoulder area while working for appellee Lowell Home Health on April 18, 2000. Subsequent to the injury Ms. Knapp has continued under the treatment of several physicians. A disc herniation at the C5-C6 level was first detected on an MRI performed on October 6, 2003. Ms. Knapp contended that the herniation was a compensable consequence of the previous injury, and she sought medical benefits for treatment of the herniation. The appellee controverted compensability of the herniation, and after a hearing held December 8, 2004, the Workers' Compensation Commission denied the claim on the basis that Ms. Knapp failed to prove by a preponderance of the evidence that her cervical disc herniation is causally related to her April 18, 2000, compensable injury. Ms. Knapp now appeals, arguing that the Commission's decision is not supported by substantial evidence. We affirm.

Appellant, as claimant, had the burden of proving entitlement to benefits under the Workers' Compensation Act by a preponderance of the evidence. *Clardy v. Medi-Homes*

LTC Services, LLC, 75 Ark. App. 156, 55 S.W.3d 791 (2001). In reviewing the decision of the Commission, we will affirm if its decision is supported by substantial evidence. *Spencer v. Stone Container Corp.*, 72 Ark. App. 450, 38 S.W.3d 909 (2001). To determine if the decision is supported by substantial evidence, this court views the evidence in the light most favorable to the Commission's decision and affirms if reasonable minds could have reached the same conclusion. *Id.* Where a claim is denied because the claimant failed to show an entitlement to compensation, the substantial-evidence standard of review requires the reviewing court to affirm the Commission if its opinion displays a substantial basis for the denial of relief. *Hislip v. Helena/West Helena Sch.*, 74 Ark. App. 395, 48 S.W.3d 566 (2001). It is the Commission's function to determine the weight to be afforded to the testimony and medical evidence. *Searcy Indus. Laundry, Inc. v. Ferren*, 82 Ark. App. 69, 110 S.W.3d 306 (2003).

Ms. Knapp testified that she hurt her neck, back, and left shoulder while attempting to lift a patient on April 18, 2000. She underwent shoulder surgery in September 2000, followed by extensive physical therapy. According to Ms. Knapp, her neck has been hurting since the accident and she continues to experience burning pain. She maintained that her neck pain was initially severe, and then leveled off and has since remained constant.

Ms. Knapp stated that she unsuccessfully tried to return to her previous employment, and that she has not engaged in lifting patients or performing heavy work since the date of the compensable injury. Beginning in January 2003, she went to work for Northwest Medical Center doing an office job. Ms. Knapp testified that she has not been involved in any accidents since April of 2000.

There were three MRIs performed subsequent to the accident. On December 6, 2000, a cervical spine MRI resulted in Dr. Bernard Fioravanti giving the opinion, "Slight reversal

of cervical spine curvature possibly secondary to muscle spasm. Otherwise, unremarkable exam.” On the day following the first MRI, Dr. Carl Kendrick reported, “MRI is okay.” The second MRI was a thoracic spine MRI conducted on November 9, 2001, which revealed a mild right paracentral disc protrusion at the C6-7 level, but no other areas of disc protrusion. The last MRI, of the cervical spine, was ordered by Dr. Luke Knox and conducted on October 6, 2003, and it revealed a herniated disc at C5-C6.

In a report filed August 12, 2004, Dr. Knox stated, “She has been found to have a rather sizable disc herniation at C5-C6 which appears to be the result of her injury occurring May 18, 2000.”¹ However, in a deposition taken on October 9, 2004, Dr. Knox failed to express such a causal relationship. In this regard, he indicated that he previously did not have access to the film of the December 6, 2000, cervical spine MRI. Dr. Knox testified, “I do not see the disc herniation on the December 2000 MRI scan, so there was a change somewhere in between the two. There were some mild disc changes, but nothing to suggest that it would eventually result in some kind of herniation.” Dr. Knox further stated that MRIs “tend to show a problem or incipient problem with a fair degree of accuracy,” and that, “It is speculation to say the injury in April could have eventually led to what I saw in October of 2003.”

On appeal, Ms. Knapp argues that fair-minded persons could not have concluded that her cervical disc herniation was not causally related to her lifting injury on April 18, 2000. She asserts that her neck condition was immediately apparent after the accident as evidenced by the fact that she felt severe neck pain, which has subsided somewhat but continued to persist. Ms. Knapp also relies on Dr. Knox’s August 12, 2004, report where he relates the

¹By context, it is clear that Dr. Knox was referring to the compensable injury occurring on April 18, 2000.

herniation to the original injury. While the first cervical spine MRI failed to reveal any herniation, Ms. Knapp submits that the quality of that MRI was poor as reflected by the opinions expressed in reports by Drs. Kendrick and Todd Harbach dated November 14, 2001, and July 26, 2002, respectively. Ms. Knapp relies on *Hall v. Pittman Construction*, 235 Ark. 104, 357 S.W.2d 263 (1962), where our supreme court held that if the claimant's disability arises soon after the accident and is logically attributable to it, with nothing to suggest any other explanation for the employee's condition, there is no substantial evidence to sustain the Commission's refusal to make an award. *See also Heptinstall v. Asplundh Tree Expert Co.*, 84 Ark. App. 215, 137 S.W.3d 421 (2003).

We hold that the Commission's opinion displays a substantial basis for denying the relief sought by Ms. Knapp. While Ms. Knapp challenges the quality of the December 2000 cervical spine MRI, the November 14, 2001, and July 26, 2002, reports by Drs. Kendrick and Harbach pertain to the questionable quality of the thoracic spine MRI conducted on November 9, 2001. In a report dated November 6, 2001, Dr. Kendrick characterized the December 2000 cervical spine MRI as "not really that conclusive," but did not indicate that it was of poor quality, and in that report he noted thoracic pain and scheduled a thoracic spine MRI "to better evaluate this situation." And while Dr. Knox did state in his August 12, 2004, report that there appeared to be a causal connection between the compensable injury and herniation, he later testified that, upon comparing the cervical MRIs, it would be speculative to conclude that the compensable injury led to the herniation. There was no other medical opinion given as to whether such a causal relationship existed.

While there may be no other explanation as to how the herniation occurred, the herniation was not detected soon after the accident, but rather more than three years later. It was Ms. Knapp's burden to prove that the herniation was caused by the April 18, 2000,

compensable injury, and we affirm the Commission's conclusion that she failed to meet her burden.

Affirmed.

GRIFFEN and CRABTREE, JJ., agree.